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4 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

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6 WESTGATE COMMUNICATIONS, a
7 Washington limited liability, d/b/a
8 “WEAVTEL,”

9 Plaintiff,

10 v.

11 CHELAN COUNTY,

12 Defendant.

NO: CV-08-004-RMP

ORDER ADDRESSING
DEFENDANT’S MOTION
FOR RECONSIDERATION AND/OR
CLARIFICATION

14 Before the Court is Defendant Chelan County’s Motion for Reconsideration
15 and/or Clarification (Ct. Rec. 147), claiming that the Court erred in finding that
16 Richard J. Weaver’s testimony adequately laid the foundation for certain exhibits
17 submitted in opposition to Defendant’s motion for summary judgment, and that the
18 Court failed to address two of Defendant’s objections regarding exhibits P and Q.
19 Plaintiffs contend that the Court’s ruling was accurate.

22 In particular, Defendant argues that the Court erred in finding that Richard J.
23 Weaver’s testimony was sufficient to establish the foundation for exhibits A, B, I,
24 and N, and that the Court erred in finding that the exhibits did not constitute
25 inadmissible hearsay. A district court is granted wide discretion in determining
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1 admissibility of evidence. *See United States v. Abel*, 469 U.S. 45, 54 (1984). In
2 addition, Fed. R. Evid. 901 provides a series of illustrations that are not exclusive
3 in establishing foundation for exhibits. Similarly, the hearsay exceptions contained
4 in the rules of evidence are far ranging.

6 The Court has reviewed Defendant's supporting memorandum (Ct. Rec.
7 148), Ms. Yakely's affidavit and attached exhibits (Ct. Rec. 149), and reply brief
8 (Ct. Rec. 160), as well as Defendant's initial motion and supporting memoranda
9 and declines to adopt Defendant's interpretation of the rules of evidence or
10 Defendant's analysis of the facts as they relate to exhibits A, B, I, and N.

12 Therefore, the Defendant's motion to amend is denied as it relates to Richard J.
13 Weaver's exhibits A, B, I, and N.

16 Defendant also moves the Court to clarify its order to address Defendant's
17 objections to Plaintiff's exhibits P and Q, attached to Richard J. Weaver's
18 declaration, and which were not expressly included in the Court's previous Order
19 on Defendant's Motion to Strike. As a preliminary matter, the Court notes that
20 neither exhibit P nor Q were cited or relied upon in the Court's order denying
21 Defendant's Motion for Summary Judgment (Ct. Rec. 142). In addition, the Court
22 stated at the end of the order that "[t]he parties may renew any objection at the
23 time of trial" (Ct. Rec. 141 at 12). Therefore, the issue of whether exhibits P and Q

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1 are admissible for purposes of the motion for summary judgment, which already
2 has been decided, is moot.

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4 However, for clarification purposes and to be complete, the Court will
5 analyze and rule on admission of exhibits P and Q attached to the affidavit of
6 Richard J. Weaver. Exhibit P is an email from Bob Dodge to Larry Angell. The
7 email contains information that is specific in nature to the matters in this case. The
8 Court finds that sufficient evidence was submitted to establish that Richard J.
9 Weaver is a person with knowledge of the matters and can lay the foundation for
10 the document because of the circumstances and contents of the email and his own
11 position and experience with WeavTel, among other reasons. Therefore, exhibit P
12 is admissible. *See* Fed. R. Evid. 901. Exhibit Q is the responsive email to exhibit
13 P. For the same reasons that apply to admission of exhibit P, the Court finds that
14 exhibit Q is admissible. *See* Fed. R. Evid. 901.

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19 Accordingly,

20 IT IS SO ORDERED that:

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22 1. Defendant Chelan County's **Motion for Reconsideration and/or**
23 **Clarification, Ct. Rec. 147**, is **GRANTED in part** and **DENIED in**
24 **part**, as outlined in this Order.

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1 2. The parties may renew these objections at trial, if the occasion arises.

2 The District Court Executive is directed to enter this Order and provide copies to
3 counsel.
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5 **DATED** this 9th day of August, 2010.
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8 *s/ Rosanna Malouf Peterson*

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ROSANNA MALOUF PETERSON

10 United States District Court Judge
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